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8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**

10 ARMANDO B. CORTINAS, JR.,

11 Petitioner,

12 vs.

13 D.W. NEVEN, *et al.*,

14 Respondents.
15

Case No. 2:14-cv-01549-RFB-CWH

ORDER

16 This action is a *pro se* petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254
17 by a Nevada state prisoner.

18 Petitioner has filed a motion to proceed *in forma pauperis*. (ECF No. 1). Based on the
19 information regarding petitioner's financial status, the Court finds that the motion to proceed *in forma*
20 *pauperis* should be granted. The petition shall now be filed and served on respondents.

21 Petitioner has filed a motion for the appointment of counsel. (ECF No. 2). Pursuant to 18
22 U.S.C. § 3006A(2)(B), the district court has discretion to appoint counsel when it determines that the
23 “interests of justice” require representation in a habeas corpus case. Petitioner has no constitutional
24 right to appointed counsel in a federal habeas corpus proceeding. *Pennsylvania v. Finley*, 481 U.S. 551,
25 555 (1987); *Bonin v. Vasquez*, 999 F.2d 425, 428 (9th Cir. 1993). The decision to appoint counsel is
26 within the Court’s discretion. *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir. 1986), *cert. denied*, 481
27 U.S. 1023 (1987); *Bashor v. Risley*, 730 F.2d 1228, 1234 (9th Cir.), *cert. denied*, 469 U.S. 838 (1984).
28 The petition on file in this action is sufficiently clear in presenting the issues that petitioner wishes to

1 bring. The issues in this case are not complex. It does not appear that counsel is justified in this
2 instance. The motion for appointment of counsel is denied.

3 **IT IS THEREFORE ORDERED** that the application to proceed *in forma pauperis* (ECF No.
4 1) is **GRANTED**.

5 **IT IS FURTHER ORDERED** that petitioner's motion for the appointment of counsel (ECF
6 No. 2) is **DENIED**.

7 **IT IS FURTHER ORDERED** that the Clerk shall **FILE and ELECTRONICALLY SERVE**
8 the petition upon the respondents.

9 **IT IS FURTHER ORDERED** that respondents shall have **forty-five (45)** days from entry of
10 this order within which to answer, or otherwise respond to, the petition. In their answer or other
11 response, respondents shall address all claims presented in the petition. Respondents shall raise all
12 potential affirmative defenses in the initial responsive pleading, including lack of exhaustion and
13 procedural default. **Successive motions to dismiss will not be entertained.** If an answer is filed,
14 respondents shall comply with the requirements of Rule 5 of the Rules Governing Proceedings in the
15 United States District Courts under 28 U.S.C. §2254. If an answer is filed, petitioner shall have **forty-**
16 **five (45) days** from the date of service of the answer to file a reply.

17 **IT IS FURTHER ORDERED** that any state court record exhibits filed by respondents shall
18 be filed with a separate index of exhibits identifying the exhibits by number or letter. The hard copy
19 of all state court record exhibits shall be forwarded, for this case, to the staff attorneys in the **Reno**
20 Division of the Clerk of Court.

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Dated this 29th day of May, 2015.

RICHARD F. BOULWARE, II
UNITED STATES DISTRICT JUDGE